

**MINUTES
BOARD OF ADJUSTMENT
PUBLIC HEARING
MAY 10, 2007**

The Lake County Board of Adjustment met Thursday, May 10, 2007 in the Commission Chambers on the second floor of the Round Administration Building in Tavares, Florida to consider requests for variances and any other petitions that may be submitted in accordance with Chapter XIV of the Lake County Land Development Regulations.

Board Members Present:

Howard (Bob) Fox, Jr.
Steven Berk
Henry Wolsmann, Vice Chairman
Mary Link Bennett
Donald Schreiner, Chairman

Board Members Not Present:

Lloyd M. Atkins, Jr.
Ruth Gray

Staff Present:

Carol Stricklin, AICP, Director, Department of Growth Management
Terrie Diesbourg, Director, Zoning Division
Anita Greiner, Chief Planner, Zoning Division
Paul Simmons, Planner, Zoning Division
Natali Trejo, Associate Planner Trainee, Zoning Division
Anna Ely, Public Hearing Coordinator, Zoning Division
Sherie Ross, Public Hearing Coordinator, Planning and Community Design Division
Melanie Marsh, Deputy County Attorney
LeChea Parson, Assistant County Attorney I

Chairman Schreiner called the meeting to order at 1:00 p.m. He noted for the record that there was a quorum present. He confirmed Proof of Publication for each case as shown on the monitor and that the meeting had been advertised pursuant to the Sunshine Statute. He stated that all letters, petitions, photographs, and other materials presented at this meeting by applicants and those in support or opposition must be submitted to staff prior to proceeding to the next case. He added that if a variance is approved at this public hearing, the owner/applicant should give staff at least 24 hours before proceeding to the zoning counter.

TABLE OF CONTENTS

<u>CASE NO.</u>	<u>OWNER/ APPLICANT</u>	<u>AGENDA NO.</u>
Consideration of Minutes	April 12, 2007	
Changes to Agenda:		
BOA#53-07-5	Michael A. and Cathy McNeely	8
BOA#49-07-2	Bruce and Nicolle Napolitano	
	Motie Sarjue, Patricia Sarjue, Bassudeo Sarjoo, and Jankie Sarjoo/Ramchand Singh	4
BOA#60-07-5	Paisley Fire District/Lake County Fire Rescue/Lake County Robert Richardson, Lake County Public Safety Department	14
Discussion		
BOA#58-07-4	Shukan LLC/Nakul Patel	13
	Consent Agenda	
Withdrawals:		
BOA#48-07-3	Ruth Rogers Trust/Richey and Cooney	3
BOA#53-07-5	Michael A. and Cathy McNeely	8
	Bruce and Nicolle Napolitano	
Continuances:		
BOA#38-07-3	Doral Estates Homeowners	2
Discussion of Consent Agenda		
Consent Agenda Approval:		
BOA#50-07-5	Anthony and Sherie Giroux/Arthur Giroux	5
BOA#51-07-3	Gregg and Nancy Arnold	6
BOA#52-07-5	Clarence Frank and Dorothy R. McRae	7
BOA#54-07-3	Jerry F. and Harriett J. Miller	9
BOA#55-07-5	Frederick D. Yancey III and Barbara C. Yancey, Trustees	10
	Barbara L. Johnson	
BOA#56-07-2	F & R Enterprises, LLC/Steve Boggs	11
BOA#58-07-4	Shukan LLC/Nakul Patel	13
Consent Agenda Approval:		
BOA#57-07-4	Sarda, LLC/Nakul Patel	12
Regular Agenda:		
BOA#22-07-2	Mads and Shantelle Kragh	1
BOA#49-07-2	Motie Sarjue, Patricia Sarjue, Bassudeo Sarjoo, and Jankie Sarjoo/Ramchand Singh	4
BOA#60-07-5	Paisley Fire District/Lake County Fire Rescue/Lake County Robert Richardson/Lake County Public Safety Department	14
Discussion	Election of Officers	
	Change to June 15 for June regular meeting	
Adjournment	2:50	

Minutes

MOTION by Henry Wolsmann, SECONDED by Mary Link Bennett to approve the April 12, 2007 Board of Adjustment Public Hearing minutes, as submitted.

FOR: Fox, Berk, Wolsmann, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Atkins, Gray

MOTION CARRIED: 5-0

Changes to the Agenda

Anita Greiner, Chief Planner, stated that a withdrawal of BOA#53-07-5 has been requested.

Staff is requesting that BOA#49-07-2 and BOA#60-07-5 be removed from the consent agenda and placed on the regular agenda.

Mary Link Bennett declared a conflict of interest in BOA#58-07-4, Agenda No. 13, on the consent agenda.

Chairman Schreiner explained the procedure for hearing cases on the consent agenda.

CASE NO.: BOA#48-07-3
OWNER: Ruth Rogers Trust
APPLICANT: Richey and Cooney

AGENDA NO.: 3

CASE NO.: BOA#53-07-5
OWNERS: Michael A. and Cathy McNeely
APPLICANTS: Bruce and Nicolle Napolitano

AGENDA NO.: 8

MOTION by Mary Link Bennett, SECONDED by Steven Berk to accept the withdrawal of BOA#48-07-3 and BOA#53-07-5.

Diane Pettengill asked to speak on BOA#53-07-5 as she disagreed with the withdrawal request.

LeChea Parson said there are different rules that would be applicable, depending on when the application was withdrawn.

Chairman Schreiner requested that the motion be withdrawn so the Board can act on BOA#48-07-3 alone.

Ms. Parson said this Board has the jurisdiction to review the withdrawal request for BOA#53-07-5 since the request for withdrawal was not received until this morning.

Ms. Bennett and Mr. Berk withdrew their motion and second.

CASE NO.: BOA#48-07-3
OWNER: Ruth Rogers Trust
APPLICANT: Richey and Cooney

AGENDA NO.: 3

MOTION by Mary Link Bennett, **SECONDED** by Steven Berk to accept the withdrawal of BOA#48-07-3.

FOR: Fox, Berk, Wolsmann, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Atkins, Gray

MOTION CARRIED: 5-0

CASE NO.: BOA#53-07-5
OWNERS: Michael A. and Cathy McNeely
APPLICANTS: Bruce and Nicolle Napolitano

AGENDA NO.: 8

Chairman Schreiner said the Board of Adjustment has received a “12th hour” request to withdraw the above case.

Diane Pettengill, realtor with Max Realty, said this property has been in the process of being sold for the past two months, being held subject to the approval of this variance for a larger mother-in-law structure. The house was taken off the market awaiting a decision by this Board. The owners got a call last night from the applicants stating they just learned that the two structures cannot be sold separately. She said the applicants knew there could not be a lot split until there was a larger easement or a diversion from the easement. In their variance request, the applicants had stated that they are not asking for this parcel to be divided. The applicants now want more time until August to try to obtain a lot split. She felt it was unfair that the applicants have requested this withdrawal and cancelled the contract. If this variance is approved, they were to proceed with the closing within the next two weeks. She felt the case should be heard.

Ms. Greiner stated that the house and accessory dwelling must be under one ownership; if this variance is approved, an agreement must be signed to that effect. A family lot split would not be possible without a variance because the easement is not 50 feet wide.

In response to Chairman Schreiner, LeChea Parson, Assistant County Attorney I, said this Board can either approve or deny this request for a withdrawal. Ms. Greiner pointed out that the hardship listed in the staff report is the hardship of the applicants. If there is no hardship, a variance cannot be granted.

When Henry Wolsmann asked if a decision can be made with the applicants not being present, Ms. Greiner said the applicants requested a withdrawal in writing. If the owners want a variance after this is withdrawn by the applicants and accepted by this Board, the owners would need to reapply and submit their own hardship.

Melanie Marsh, Deputy County Attorney, and present on behalf of staff, said that according to the Code, if the variance is not withdrawn in writing 24 hours before the hearing, it must come before this Board with the applicants present. It was her understanding that it was withdrawn within the past few hours so it would be up to this Board whether or not to withdraw it or move it to the regular agenda and hear the entire case.

Ms. Greiner submitted the letter of withdrawal as County Exhibit A and showed it on the monitor.

Catherine McNeely, co-owner of the property, said they are in the process of selling this property. They are leaving today to sign the paperwork for a loan on a new home in Tennessee. This withdrawal request would be a hardship to them. They would prefer to proceed with the variance should this issue occur with another future buyer.

Ms. Marsh stated that the variance would run with the property, regardless of who owns it. If the case is heard at this public hearing, the Board will be hearing the applicant’s hardship, whether or not the applicants meet the intent of the Code, and whether or not the applicants have a principles of fairness issue. That is what this Board would base their decision upon. However, since the applicants are not present, the Board will only hear the owner’s side. From staff’s point of view, she cautioned that the contract issues are not issues for this Board. Whether or not this Board grants the variance has nothing to do with whether or not that buyer closes the contract. That would be addressed in a civil forum.

Ms. McNeely said she understood that. When they built the existing structure, they built it with the intent of putting a home on the property. Anyone who purchases this property, unless they want to live in an 800 square foot structure attached to a barn, will have the same issue.

CASE NO.: BOA#53-07-5
OWNERS: Michael A. and Cathy McNeely
APPLICANTS: Bruce and Nicole Napolitano

AGENDA NO.: 8

MOTION by Howard (Bob) Fox, SECONDED by Steven Berk to accept the withdrawal of BOA#53-07-5.

FOR: Fox, Berk, Schreiner

AGAINST: Wolsmann, Bennett

NOT PRESENT: Atkins, Gray

MOTION CARRIED: 3-2

MAY 10, 2007

OWNER/APPLICANT: **Doral Estates Homeowners**

MOTION by Mary Link Bennett, SECONDED by Steven Berk to continue BOA#38-07-3 until the June 15, 2007 Board of Adjustment public hearing and that it be placed first on the agenda.

MOTION CARRIED: 5-0

Discussion of Consent Agenda

There was no one on the Board nor anyone in the audience who had an objection to the following cases remaining on the consent agenda: BOA#50-07-5, BOA#51-07-3, BOA#52-07-5, BOA#54-07-3, BOA#55-07-5, BOA#56-07-2, and BOA#58-07-4. Mary Link Bennett announced that she has a potential conflict of interest on BOA#57-07-4 rather than on BOA#58-07-4 as she had stated earlier. BOA#57-07-4 will be voted on separately.

Consent Agenda:

CASE NO.:	BOA#50-07-5	AGENDA NO.:	5
OWNERS:	Anthony and Sherie Giroux		
APPLICANT:	Arthur Giroux		
CASE NO.:	BOA#51-07-3	AGENDA NO.:	6
OWNERS/APPLICANTS:	Gregg and Nancy Arnold		
CASE NO.:	BOA#52-07-5	AGENDA NO.:	7
OWNERS/APPLICANTS:	Clarence Frank and Dorothy R. McRae		
CASE NO.:	BOA#54-07-3	AGENDA NO.:	9
OWNERS/APPLICANTS:	Jerry F. and Harriett J. Miller		
CASE NO.:	BOA#55-07-5	AGENDA NO.:	10
OWNERS:	Frederick D. Yancey III and Barbara C. Yancey, Trustee		
APPLICANT:	Barbara L. Johnson		
CASE NO.:	BOA#56-07-2	AGENDA NO.:	11
OWNER:	F & R Enterprises, LLC		
APPLICANT:	Steve Boggs		
CASE NO.:	BOA#58-07-4	AGENDA NO.:	13
OWNER:	Shukan LLC		
APPLICANT:	Nakul Patel		

MOTION by Henry Wolsmann, SECONDED by Mary Link Bennett to take the following actions on the above consent agenda:

BOA#50-07-5	Approval with conditions
BOA#51-07-3	Approval with conditions
BOA#52-07-5	Approval with one condition
BOA#54-07-3	Approval with conditions
BOA#55-07-5	Approval with conditions
BOA#56-07-2	Approval
BOA#58-07-4	Approval

FOR: Fox, Berk, Wolsmann, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Atkins, Gray

MOTION CARRIED: 5-0

Consent Agenda:

CASE NO.: BOA#57-07-4
OWNER: Sarda, LLC
APPLICANT: Nakul Patel

AGENDA NO.: 12

MOTION by Steven Berk, SECONDED by Henry Wolsmann to approve the above consent agenda item, BOA#57-07-4.

FOR: Fox, Berk, Wolsmann, Schreiner

AGAINST: None

CONFLICT OF INTEREST: Bennett

NOT PRESENT: Atkins, Gray

MOTION CARRIED: 4-0

CASE NO.:

BOA#22-07-2

AGENDA NO.:

1

OWNERS/APPLICANTS:

Mads and Shantelle Kragh

Anita Greiner, Chief Planner, presented the case and staff recommendation of approval with conditions. She showed the aerial, survey, and landscape drawing from the staff report on the monitor. She submitted eight drawings by the owners (County Exhibit A).

Mads and Shantelle Kragh were present to represent the case.

Steven Berk commented that he was not on the Board when this variance was first heard. Although the Kraghs went through the process to get the correct permits, he felt the structure is out of place for what already exists in the area. He confirmed with Mr. Kragh that an error was made on the part of the County.

Ms. Greiner showed several photo pages from the staff report on the monitor.

Mr. Berk confirmed that Mr. Kragh had looked into aesthetically camouflaging or remodeling the structure, and the cost was exorbitant. He felt that would have been the best solution. Mr. Kragh said they had looked into a façade, but it would have resulted in the structure being much taller, much bigger, and not as structurally sound as it should be. Mr. Berk agreed that the building appeared to be very well built. Mr. Kragh said the proposed landscaping is very extensive and should cover it fairly well. However, from a two-story home like his neighbor has, it would always be possible to find an angle where some part of the roof would be in view. He felt this is the best solution to cover the structure.

John Padgett, adjacent property owner, said he submitted two documents to the Board--one was a personal perspective from the adjacent residence and provided some history on the case. The second document was a collective opinion of the adjacent neighbors. His personal opinion and their collective opinion is that this Board should not make any modifications to its approval of the requested variance. The two issues involved are form and placement. He said he has no issue with the structure being in the front yard since it is a large piece of property. However, under no circumstance did they feel the structure should be out of context with the architectural surroundings of the residential structure as well as the neighborhood. From any perspective, Mr. Padgett said there is no question that this Quonset hut is completely out of context with respect to Mr. Kragh's residential property, the surrounding area, or any residential area he has seen in Lake County.

Mr. Padgett added that the height of his second story is about 12 feet at floor level. This would give a viewing angle going down of about 17 feet. From all eleven windows that he has, he can view the Quonset hut structure. The proposed trees would be 14 feet. He thought the structure was at least 19 feet tall; therefore, the trees would be five feet lower than the hut plus he has a taller perspective by looking down. He asked that no modifications be made to the conditions of this variance.

Mr. Padgett asked that a picture of the front view of Mr. Kragh's residence be placed on the monitor. He noted the five "slit" windows on the home. He felt Mr. Kragh's residence was designed so as to not see the Quonset hut placed in the front. Although there has been a mistake made between the Kraghs and the County, he did not feel that should be his liability or his issue. He acknowledged that damage has occurred, and there will be liability somewhere; that liability will occur between the County and the Kraghs or Mr. Padgett and the County. When he said the decision of this Board will decide which way that goes, Ms. Parson said the liability issue is outside the scope of this Board's decision.

Even with the landscaping proposed versus the original conditions, Mr. Berk said the structure would still not be covered from all the angles of Mr. Padgett's windows. Mr. Padgett had spoken of the five feet of the

structure that would not be covered, but Mr. Kragh said Mr. Padgett has planted some trees; and with the proposed landscaping, eventually the structure would be hidden. The alternative would be a structure of the same size with no landscaping around it. He did not feel that would be beneficial to the neighborhood.

CASE NO.: BOA#22-07-2 AGENDA NO.: 1**OWNERS/APPLICANTS: Mads and Shantelle Kragh PAGE NO.: 2**

Ms. Greiner said the County does not have architectural standards. The placement of the structure, which Mr. Padgett said he did not have a problem with, was the reason for the earlier variance. The owner could have placed the structure in the back, but it would have been in view there as well. No landscaping or covering would have been required if it was placed in the back. She reiterated that the owners did obtain all the proper permits.

Mr. Berk confirmed with Ms. Greiner that whether or not to modify the conditions is the only issue to be considered at this time. He felt that this structure will require more than landscaping and that the original conditions were more appropriate.

MOTION by Steven Berk, SECONDED by Howard (Bob) Fox to deny the variance request in BOA#22-07-2.

FOR: Fox, Berk, Wolsmann, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Atkins, Gray

MOTION CARRIED: 5-0

CASE NO.: BOA#49-07-2

AGENDA NO.: 4

OWNERS: Motie Sarjue, Patricia Sarjue, Bassudeo Sarjoo,
and Jankie Sarjoo

APPLICANT: Ramchand Singh

Paul Simmons, Planner, presented the case and staff recommendation of approval with one condition. This property is located in the Green Swamp Area of Critical Concern. He showed the flood map from the staff report on the monitor. He noted that two letters of objection had been received. He submitted a map (County Exhibit A) showing the location of the property where Will and Sheri Torres live and a second map (County Exhibit B) showing the location of the property where Rob Kelly lives. At the request of the writer, Mr. Simmons read the letter sent by e-mail from Rob Kelly into the record and showed on the monitor the aerial photos Mr. Kelly referred to in his e-mail.

Steven Berk asked if the financial hardship mentioned in the staff report meets the definition of a true hardship.

Referring to the portion of the letter of opposition regarding the inability of emergency vehicles to navigate the easement, Mary Link Bennett asked if staff had determined if that was so. Mr. Simmons said he posted the property personally and drove the entire length of the easement. He took pictures and included them in the backup information. Mr. Simmons said he felt the easement was totally passable. Mr. Berk said that towards the end, it is a two-track road. It is good at the beginning and deteriorates as it goes along. He could not say whether or not a fire truck that was not four-wheel drive could travel the easement.

The applicant was present, but the Board had no questions for the applicant. There was no one else in the audience who wished to speak on the case.

MOTION by Howard (B) Fox, SECONDED by Steven Berk to deny the variance request in BOA#49-07-2.

In response to Ms. Bennett, Mr. Fox said he did not feel the applicant showed a true hardship. Mr. Berk agreed because there is no home on the property at this time. He also had a problem with this request meeting the intent as he felt a paved road is needed.

FOR: Fox, Berk, Wolsmann, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Atkins, Gray

MOTION CARRIED: 5-0

CASE NO.: BOA#60-07-5

AGENDA NO.: 14

OWNER: Paisley Fire District/Lake County Fire
Rescue/Lake CountyAPPLICANT: Robert Richardson, Lake County Public
Safety Department

Anita Greiner, Chief Planner, presented the case and staff recommendation of approval with one condition. She showed on the monitor the aerial and four coverage maps with towers at different heights from the backup information. Regarding Exhibit 5 from the backup information, she said the road should be County Road 42, not State Road 44, as shown. She noted on Exhibit 5 that the tower would be 20 feet from the east property line and 20 feet from the south property line. In an effort to locate the tower as far away as possible from the existing dwelling units, the tower would be located in the southeast corner of the parcel and more landscaping would be added to buffer the tower and equipment box. Chairman Schreiner commented that the buffering would be basically for the equipment box. She submitted a map showing the 2300-foot distance between the existing monopole tower and the proposed lattice tower as County Exhibit A.

When Mary Link Bennett asked if this tower would help cell phones, Chairman Schreiner said it would not. Once the 1500-foot tower is built along with the 480-foot tower, Ms. Greiner said the needed coverage will be available in the area plus over the County so the County will be able to provide mutual aid coverage as well.

Steven Berk confirmed with Ms. Greiner the variances that are involved with this case—the centering of the tower, the 100-foot distance of the tower from the property line, 1,320 feet from the residence, and 3,500 feet from the existing tower. Mr. Berk was informed by Ms. Greiner that the closest existing dwelling unit (on property to the north) to the proposed tower would be 270 feet. Across the road there are some dwelling units that would be 500 feet or more from the proposed tower.

Robert Richardson, Radio Systems Coordinator for Lake County Public Safety, reiterated that the tornados of February 2, 2007 destroyed the Royal Trails communications tower that provided the majority of the coverage on the east side of the County. In this area, the call volume for the Sheriff's Office alone resulted in response to 8,750 calls from January 1 of this year to date. From midnight to 10 a.m. on this date, the Sheriff's Office responded to 770 calls for service Countywide. They have tried to do the best they could with the portable towers to provide some communication, but time is of the essence. This is the most expeditious location they could find; it would be on County property. He submitted a letter from Valmont Structures (Applicant Exhibit A), the manufacturer that would be making the tower. The letter discusses the likelihood of a self-supporting structure falling and how it is designed to fall on itself. Crumble zones are built into the tower. He added that the call volume is beginning to rise as children get out of school.

Ms. Bennett asked if the Forestry Division will have access to or use of this system. Mr. Richardson said the Forestry Division works with the County units now and operates on a similar technology to the County's.

In response to Henry Wolsmann, Mr. Richardson said that if this variance is approved at this public hearing, they would be on the agenda for the May 22, 2007 Board of County Commissioners (BCC) agenda for approval to purchase the tower and proceed. Once that happens, the contracts will be signed and executed. After that, Motorola has set a timeframe of 180 days from the start of construction to completion of the project, taking the weather into consideration.

Howard (Bob) Fox confirmed that both the tower and property will be owned by the County.

Gary Kaiser, Director of Public Safety and Fire Chief for Lake County, spoke of the great need for this tower and the concern he and the Sheriff share about putting people at risk every day by providing limited communication for them. He reiterated that this is County property. They have had difficulty in the past trying to gain access when they have used shared sites.

CASE NO.:	BOA#60-07-5	AGENDA NO.:	14
OWNER:	Paisley Fire District/Lake County Fire Rescue/Lake County	PAGE NO.:	2
APPLICANT:	Robert Richardson, Lake County Public Safety Department		

Gary Cooney, attorney practicing in Leesburg and present to represent the property owner of the 160 acres east of the site, said they have several concerns. One is the location of the tower. Even though extra buffering is proposed, it will actually only buffer the equipment. Although he did not know if this would violate principles of fairness if a variance was not issued, he felt they have probably demonstrated that there is a hardship in this area of the County from the standpoint of police and firefighters. He said they are not trying to delay coverage coming out to this area. They are at this meeting to try to get this Board to do something other than what is being asked. Regarding the variance from the 100-foot distance from the property line, Mr. Cooney felt that part of that 100-foot setback requirement is guided by aesthetics and part is guided by safety. If they put houses along their property line with a 25-foot setback, there would be a 45-foot separation. He questioned whether people would want to buy a house with a 480-foot tower so close, and he also questioned whether the tower could collapse on the subject property with only a 20-foot setback from the property line. That would require that every section of the tower be less than 20 feet. He asked that this requirement not be waived; or if it is not waived that the tower be set back closer to the center of the property and the fire station. It may bring the tower closer to the houses across the road, but it will be further away from the houses that would eventually be even closer.

Mr. Cooney stated that he did not feel that Section 3.13.17 of the Land Development Regulations (LDRs) has been addressed. It is an unusual part of the cell tower code in that it seems to tie zoning and wireless communication towers together. The Lake County Code states that a variance cannot be granted for something that is otherwise a non-permitted use. All the provisions of CFD zoning must be met in order for this to be a permitted use, and they are not meeting those minimums. He added that there has been no request for advertisement of a variance to Section 3.13.17. One of the points in that section is aesthetic impact. There was testimony at the Zoning Board public hearing that there is no way to make a 480-foot tower aesthetically pleasing. He agreed. Another point in that section spoke to compatibility with the surrounding neighborhood. At 20 feet from the property line, they did not feel the tower is compatible with the neighborhood they want to build. He then referred to Item C in that section regarding minimum standards. He felt that a variance is needed to that. He reiterated that his client is not interested in lengthening the time it will take to get coverage in this area. However, his client has offered to work with the County and will continue to work with the County. They have offered to provide the County with an alternative site on his client's property, which is further to the north and would place the tower further from the houses they want to build. If the variance is granted today, he requested that staff continue to have dialogue with them regarding an alternative site with no delay. Chairman Schreiner asked if Mr. Cooney's client would be interested in donating some additional land to the subject property. Mr. Cooney said that with the way the land lays and their current zoning status, the units they want to build are clustered in the corner nearest to the tower. If they could cluster them somewhere else, it may be possible to say yes to Chairman Schreiner's question. Chairman Schreiner asked why they are clustering the homes near the fire station; Mr. Cooney said that due to the zoning, they do not have much choice. When Ms. Bennett asked about the wetlands on the site, Mr. Cooney said they are located to the east and must be avoided. The larger home sites would be located on the northern portion of the property. They would be willing to give up some of those home sites to accommodate the tower. The more intense uses are closer to the fire station and tower site. If they could shift them, they would be glad to do so.

Melanie Marsh, Deputy County Attorney and present on behalf of staff, submitted a copy of Page 3257, Section 3.13.17 as County Exhibit B and showed it on the monitor. She clarified that this section has to do with the CFD rezoning for the tower. These issues are a consideration for the BCC, not this Board. This Board is charged with intent of the Code and hardship. Mr. Cooney is not disagreeing with the hardship. Staff believes the intent of the Code would be met by the additional landscaping and changing the property line distance from six feet to 20 feet. She reiterated that this is a first responder issue, and time is of the essence in trying to move forward.

CASE NO.:	BOA#60-07-5	AGENDA NO.:	14
OWNER:	Paisley Fire District/Lake County Fire Rescue/Lake County	PAGE NO.:	3
APPLICANT:	Robert Richardson, Lake County Public Safety Department		

Mr. Richardson said he and Mr. Cooney reviewed the property they offered to the County, and it would require the County to go through the process again as that property will also need a variance from the existing monopole tower. While the County wants to work with them and be good neighbors, they also have a sense of responsibility to the first responders to do something in a timely manner.

Regarding Mr. Cooney's statement about Code requirements for a falling tower, Ms. Greiner submitted a copy of Section 3.13.03 of the LDRs (County Exhibit C) and read 3.13.03A into the record; she said the County has not requested a variance to that section. Therefore, that requirement must be met. She also submitted a copy of the Building Code regarding radio and television towers as County Exhibit D. That will be determined through the engineering and with the plans examiners in the Building Division.

MOTION by Steven Berk, SECONDED by Howard (Bob) Fox to approve the variance request in BOA#60-07-5 with the condition that a landscape buffer with a minimum width of 20 feet, consisting of six canopy trees (ten feet in height, two and one-half inches in diameter), and five ornamental trees to be planted every 100 feet with a continuous double row of shrubs of at least 24 inches in height at planting and of sufficient health and quality capable of growing to at least 36 inches in height. All landscaping shall be of the evergreen variety and shall be drought tolerant and suited to the site soil conditions or irrigated and properly maintained to ensure good health and viability.

FOR:	Fox, Berk, Wolsmann, Bennett, Schreiner
AGAINST:	None
NOT PRESENT:	Atkins, Gray
MOTION CARRIED:	5-0

Elections

MOTION by Howard (B) Fox, SECONDED by Steven Berk to retain the same officers for next year who are currently serving as officers on the Board of Adjustment: Donald Schreiner as Chairman and Henry Wolsmann as Vice Chairman.

FOR: Fox, Berk, Wolsmann, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Atkins, Gray

MOTION CARRIED: 5-0

June Board of Adjustment Public Hearing

Anita Greiner, Chief Planner, reminded the Board that the June Board of Adjustment public hearing will be held on June 15 rather than on the regularly scheduled date of June 14.

Adjournment

There being no further business, the meeting was adjourned at 2:50 p.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Donald Schreiner
Chairman